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HOUSE COMMITTEE ON
GOVERNMENT REFORM**

STATEMENT BY

MR. PHILIP W. GRONE

PRINCIPAL ASSISTANT DEPUTY UNDER SECRETARY OF DEFENSE

(INSTALLATIONS AND ENVIRONMENT)

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OMB REVISION TO CIRCULAR A-76

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Chairman Davis, Mr. Waxman and distinguished members of the Committee; I am pleased to have this opportunity to appear before you today to discuss the revision to OMB Circular A-76 and its expected impact on the Department of Defense.

As we consider approaches to better utilize our personnel, competitive sourcing provides a methodology for focusing on our core capabilities. The Department must continue to do business better, faster and at reduced cost to maintain our focus on readiness. In order to focus on what we do best - - our core mission activities - - we must become more efficient in our support, or non core, functions.

The Department has long experience demonstrating that the forces of competition produce more efficient services at reduced cost to the taxpayer, regardless whether public or private sector performs these services. While we were successful at achieving savings under the old Circular, the process was often frustrating for all involved. We believe the new Circular provides us with a fresh start with employees, industry, and managers of the competitive sourcing program. We must take strides to avoid the adversarial nature that often surrounded past A-76 competitions.

The Department believes OMB has taken significant steps toward this goal by providing a competitive framework that promotes fairness, transparency, and accountability. The faster, one-step process has a specific time limitation but allows a common sense approach that permits us to properly prepare for these competitions through preliminary planning. By aligning the new public-private competition process

more closely with procedures already used under the Federal Acquisition Regulations (FAR), transparency and fairness is enhanced for all participants. The Department's initiatives support the President's vision of a market-based government used to achieve our President's Management Agenda goals for Competitive Sourcing. We intend to use the new Circular to meet the Department's competitive sourcing target. The Business Initiatives Council, chaired by the Acting Under Secretary (Acquisition, Technology and Logistics) is currently reviewing future Competitive Sourcing plans for submission in the FY 2005 program and budget cycle.

As we implement the new Circular in the Department of Defense, we must review our ongoing program to determine how to best comply with the new Circular's transition objectives. A smooth transition is absolutely essential because we believe that the credibility of the new process depends on our successful execution of these initial competitions. As we start competitions using the new procedures, we need to ensure responsible officials are properly trained for new, expanded duties. Agency Tender Officials, Human Resource Advisors, and contracting officers now have specific designated responsibilities to perform during these new public-private competitions. The new Circular specifically assigns responsibility to key competition officials to ensure that specific requirements are performed by the appropriate experts, such as the personnel related requirements that are clearly now the responsibility of a Human Resource Advisor. The contracting officer's role has also been delineated to ensure both the FAR and Circular requirements are consistent but this delineation leads to increased

responsibilities. And Agency Tender Officials will play a major role in future competitions and their specific responsibilities are entirely new.

We must continue to work closely with our dedicated and resourceful workforce in order to promote the fairness, transparency, and accountability that the Circular advocates as the Department implements the new procedures. Employee involvement in our A-76 competitions has always been essential to successful results and we will ensure their continued participation as we implement the new process. The role of the Agency Tender Official provides the employees with a designated individual who has the responsibility and, more importantly, the authority to develop a competitive agency tender. He will be responsible to ensure that employees have a voice during the entire process. The Human Resource Advisor is another added advantage for the employees since this individual will be able to address personnel related issues that arise in developing a competitive agency tender. This official will also interact with directly affected employees throughout the entire competitive process. The clear definition of representatives of directly affected employees that is included in the Circular also brings standardization to the process that will ensure their participation while avoiding the appearance of conflicts of interest.

I'd like to highlight some of what I believe are the more critical and positive elements of the new Circular.

- The designation of Competitive Sourcing Officials and centralized management are key to spreading best practices and to avoid common pitfalls of A-76 competitions of the past.
- The appointment, accountability, and specified responsibilities of specific competition officials will be instrumental to conduct fair and successful competitions.
- Clear and unambiguous application of the FAR in combination with the Circular that require contracting officers to evaluate all prospective providers, private and public, in a single evaluation process will greatly enhance transparency. The use of a one step process should help level the playing field for all participants, mitigating a common complaint about past competitions.
- The emphasis on Preliminary planning properly recognizes a long-standing need that emphasizes that proper preparation for competition is the essential first step in the success of a competition. Proper preliminary planning leads to the better packaging of activities for competition and avoids negatively impacting unaffected employees. Preliminary planning is the single improvement that will lead to the new 12 month goal for completing our competitions.
- Best value for the taxpayer is the goal of every acquisition in the Federal Government. OMB's tradeoff source selection process allows best value in the new standard competition process and is a significant enhancement compared to the old "cost comparison" process. This enhancement is available to all agencies except the Department of Defense. We are limited to best value with the lowest cost provider due to the statutory limitation of Section 2462 in Title

10 of the United States Code. The Department's transformation legislative package proposes relief from this restriction in order to encourage inclusion of innovative business practices in both public and private sector bids.

- The streamlined competition requirements are a significant improvement over the direct conversion and streamlined process contained in the previous Circular. The new process is structured in such a manner as to provide maximum flexibility for agency implementation of smaller initiatives. We believe that the standardized approach, accelerated time lines and appropriate firewalls will preclude preconceived outcomes.
- The new Circular also recognizes DoD's A-76 costing expertise and requires use of our A-76 costing software known as COMPARE for all federal agencies. Costing the government tender will remain a challenging part of the public-private competition process, but standardization will all parties understand the rules to be used.
- Our knowledge management web site known as SHARE A-76! will continue to promote the sharing of best practices resulting from A-76 competitions conducted by all Federal agencies.
- Finally, another significant improvement to the public-private competition process is the elimination of a separate and confusing administrative appeal process that conflicts with protest procedures under the FAR. We believe the procedures in the revised Circular allow all parties with equal access to remedies for perceived inaccuracies in these competitions.

In spite of all the anticipated positives of the new Circular, we anticipate that for a period of time we will have a program that operates under two sets of rules. The new circular will apply to a certain number of ongoing competitions while other in-progress competitions will be completed under the old circular. We will make public announcements of the competitions that will transition as required by the Circular. Regardless of the rules, we will ensure that the requirements of the new and old circulars are not combined to the advantage of any party. Another example of duplication that will have to be maintained is the costing software. We anticipate that our update of COMPARE to incorporate the new A-76 costing guidance will be available to other agencies within the next month. Nonetheless, separate costing software versions will need to be maintained to comply with the two differing sets of costing policies under the new and old Circular for the next year or so.

Again, I want to emphasize that it does not matter who wins public-private competitions as long as the decision delivers results--services at the best value for the taxpayer. As of June 1, 2003, the Department of Defense has completed competitions in excess of 71,000 positions. This exceeds the fifteen percent competitive sourcing target negotiated with OMB for FY 2003. By reaching this target, we hope to be one of the first federal agencies to reach yellow status for the competitive sourcing initiative. We need to move forward in our use of these new procedures in order to meet the long-term fifty percent target identified in the President's Management Agenda.

Mr. Chairman and Committee members thank you again for the opportunity to address these important issues with you today and I am happy to answer any questions you may have.